

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**HELEN J. AUSTIN, Wrongful Death Beneficiary,
Individually, and on Behalf of all other Wrongful
Death Beneficiaries of Nathaniel Phipps, Deceased**

PLAINTIFF

V.

CASE NO. 3:03CV82

**MARINER HEALTH CARE, INC. d/b/a GRENADA
HEALTH & REHABILITATION CENTER, et al**

DEFENDANTS

ORDER

This cause comes before the Court on the plaintiff's motion to reconsider [139-1]. In an order dated March 8, 2005, this Court granted the defendants' motion for summary judgment on the grounds that the plaintiff lacked standing to bring this suit and that permitting her to amend her complaint so late in the litigation process would be unduly prejudicial to the defendants. Shortly thereafter, the plaintiff filed the instant motion to reconsider.

The Court finds that this motion is not well-taken and should be DENIED for the same reasons the Court gave in its order granting summary judgment. Furthermore, the Court notes that the plaintiff's reliance on Methodist Hospital of Hattiesburg, Inc. v. Linda Richardson, 2005 WL 246685 (Miss. 2005) is misplaced. As the defendants note, Richardson dealt with a motion to dismiss under Rule 12(b)(6), and the Mississippi Supreme Court expressly distinguished the plaintiff's right to amend under Rule 12(b)(6) from his lack of a similar right where the motion is for summary judgment under Rule 56. See Richardson, 2005 WL 246685, FN 6.

This is the 9th day of March, 2005.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE